

REMARKS/ARGUMENTS

Status of the Claims

Claims 47-50, 52-54, 56, 58, and 59 are pending. Claims 1-46, 51, 55, and 57 were previously canceled. No amendments are made herein.

Claim Rejections

Claims 52, 58, and 59 are rejected under 35 U.S.C. § 112 as allegedly claiming new matter.

Claim 53 is rejected under 35 U.S.C. § 112 as allegedly failing to meet the written description requirement.

Claims 52, 58, and 59 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by WO 00/34494. Claims 52, 58, and 59 are further rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Application Publication No. 2004/0019195 or U.S. Patent 6,969,609.

The pending claims are provisionally rejected due to obviousness-type double patenting in view of copending U.S. Patent Application No. 10/406,317, alone and in view of U.S. Patent 6,319,496 and WO 91/02805.

Discussion of Claim Rejections

Applicants traverse these rejections for the reasons set forth in the previously submitted Reply to Office Action. In addition, Applicants traverse the new matter rejection of claims 52, 58, and 59 for the following reasons. The Office Action states that there is no support for a kit comprising a vector comprising an amino acid that encodes an amino acid of SEQ ID NO: 2, 3, 5, and 5 or a composition containing the same. Applicants point to at least specification paragraphs 0073 and 0074, which provide support for the claimed vector. Further, specification paragraphs 0022, 0023, and 0040 provide support for a composition comprising a nucleic acid molecule encoding an amino acid of SEQ ID NO: 2, 3, 4, and 5 in a pharmaceutically acceptable carrier.

As regards the obviousness-type double patenting rejection, Applicants may consider filing a terminal disclaimer upon an indication that the claims in the subject application or the '317 application are allowable.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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